



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **R.VIJAYAKUMAR**

C.R.P.(MD)No.927 of 2013

D.Durai Kamaraj

....Petitioner

Vs

1.The Deputy Registrar of Cooperative Societies,
Lalgudi Town and Taluk,
Tiruchirapalli District.

2.Venkatachalapuram Primary Agricultural
Cooperative Bank,
by its Special Officer, having office at
Venkatachalapuram, Lalgudi Taluk,
Tiruchirapalli District.

...Respondents

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the order passed in C.M.A.(CS)No.14 of 2011 dated 17.01.2013 on the file of the Principal District Judge, Tiruchirapalli, confirming the order passed by the Deputy Registrar of Cooperative Societies, Lalgudi in R.C.No.1328/2006 Sa.Pa. Dated 28.01.2010.



WEB COPY



For Petitioner	:Mr.C.M.Arumugam
For R1	: Mr.C.Satheesh Government Advocate
For R2	:No Appearance

ORDER

The present Revision Petition has been filed challenging the order passed in C.M.A(CS)No.14 of 2011 on the file of the Principal District Court, Tiruchirapalli.

2.The petitioner herein was working as Secretary of the second respondent Cooperative Bank for the period between 09.02.1987 and 30.06.1999. Proceedings were initiated as against the Revision Petitioner under Section 87 of the Tamilnadu Cooperative Societies Act, 1983. The main allegation as against the petitioner is that the jewel loans, that were granted by the Bank to various members of the Bank, have not been recovered in due time. The jewels were sold belatedly, which had resulted in deficit recovery of loan amount. The delay in bringing the jewels for auction was only due to the lethargic attitude on the part of the petitioner. Hence, a sum of Rs.85,481/- was sought to be recovered by way of an



order dated 28.01.2010 passed under Section 87 of the Tamilnadu Cooperative Societies Act, 1983.

3.Challenging the said order, the appellant herein filed C.M.A. (CS)No.14 of 2011 before the Principal District Court, Tiruchirapalli, contending that as soon as the Board passed resolution to bring the jewels for auction, he had immediately taken steps and made advertisement in Dinakaran newspaper for conducting auction. However, due to the intervention of the then Board of Directors, the auction was postponed at the relevant point of time. He was terminated from service on 30.06.1999 and after a period of three years thereafter, the jewels were auctioned on 15.02.2002. Therefore, any delay on the part of the Bank, after his termination from service, could not be attributed to him.

4.The learned District Judge had dismissed the appeal on the ground that the petitioner would not be entitled to contend that auction was not conducted in a proper manner. The original authority, namely, the Deputy Registrar, has given sufficient opportunities to the petitioner to adduce oral and documentary evidence and also to file a calculation memo.



WEB COPY

The learned District Judge further found that the petitioner has not chosen to cross examine the witnesses. Therefore, the objections raised by the petitioner relating to the genuineness of the auction and his victimisation are not legally acceptable. Based on the said finding, the appeal was dismissed by the appellate Court. Challenging the same, the present Revision Petition has been filed.

5.The learned Counsel for the Revision Petitioner had contended that the original authority, namely, the Deputy Registrar in his order dated 28.01.2010 has pointed out that the Board has passed a resolution on 06.07.1998 to bring the jewels for auction, however, as a Secretary of the Society, the petitioner has not taken any steps to bring the jewels for auction. The jewels were brought to auction only on 15.02.2002, which had resulted in a huge loss to the Cooperative Society.

6.The learned Counsel for the Revision Petitioner has brought to the notice of this Court, a copy of the paper publication made on 20.11.1998 for auctioning the jewels and also notices to the individual members intimating about the date of auction. He further contended that



WEB COPY

though such a defence was raised before the original as well as appellate authorities, they have not properly appreciated the said fact and mulcted the liability upon the Revision Petitioner. He further contended that the loss, if any, could be only to an extent of Rs.8,684/- and hence, he prayed for allowing the Revision Petition.

7.Per contra, the learned Government Advocate appearing for the first respondent, who is the original authority, had contended that the loans have become time barred way back in the year 1995 to 1997. The Revision Petitioner was in service till 30.06.1999. However, he has not taken any steps to bring the jewels for auction in order to recover the jewel loans, even after the resolution was passed by the Board on 06.07.1998. Belatedly, auction notices have been issued. Hence, for the loss incurred by the Cooperative Bank, the Revision Petitioner is solely responsible and therefore, he prayed for confirming the concurrent orders passed by the original as well as appellate authorities.

8.I have carefully considered the submissions made on either side and perused the material records.



WEB COPY

9. There is no dispute that the Revision Petitioner was working as a Secretary of the second respondent Bank between 09.02.1987 and 30.06.1999. The primary allegation, on which surcharge proceedings have been initiated as against the Revision Petitioner, is that he has not brought the jewels for auction in which, the members have committed default in repaying the loan amount in time. However, the Revision Petitioner has contended that immediately, after the Board resolution on 06.07.1998, he had taken steps to bring the jewels for auction and he has also made a paper publication to the said effect. However, only due to the intervention of the then Board Members, the auction was postponed and hence, he could not be held responsible for the loss incurred to the Cooperative Bank.

10. The original authority in his order has pointed out that the Board has passed a resolution on 06.07.1998. By way of additional typed set of papers, the Revision Petitioner has produced the paper publication issued by the second respondent Bank on 20.11.1998 to bring the jewels for auction. He has also brought to the notice of this Court that the defaulting members have been issued with separate notice on 23.11.1998.



WEB COPY

11.It is an admitted fact that the auction was not conducted on 17.12.1998 as per the paper publication, but it was conducted after four years, namely 15.02.2002. Therefore, it is clear that while the Revision Petitioner was in service, he had immediately taken action to bring the jewels for auction pursuant to the Board resolution. However, the auction could not be conducted only due to the intervention of the members of the Board. Therefore, the loss incurred to the Cooperative Bank due to the delayed auction is not attributable to the Revision Petitioner.

12.The stand taken by the Revision Petitioner in his counter to Section 87 proceedings has not been properly considered at all by the original as well as the appellate authority. Further, the Revision Petitioner has admitted in his explanation submitted to Section 87 proceedings that he is liable to an extent of Rs.8,684/-. Since there is admission on the part of the Revision Petitioner, this Court finds that it would be appropriate to direct the Revision Petitioner to deposit the said amount before the authority concerned.



WEB COPY

13. In view of the aforesaid deliberation, the order passed in C.M.A.(CS)No.14 of 2011 dated 17.01.2013 confirming the order dated 28.01.2010 passed by the first respondent is hereby set aside except to the extent of Rs.8,684/-. The Revision Petitioner is directed to deposit a sum of Rs.8,684/- before the second respondent Bank within a period of four weeks from the date of receipt of a copy of this order. The Revision Petition stands allowed to the extent as stated above. No costs.

08.09.2023

Index : Yes/No
Internet : Yes/No

cmr



WEB COPY

To

1. The Principal District Judge, Tiruchirapalli.
2. The Deputy Registrar of Cooperative Societies,
Lalgudi Town and Taluk,
Tiruchirapalli District.
3. Venkatachalapuram Primary Agricultural
Cooperative Bank,
by its Special Officer, having office at
Venkatachalapuram, Lalgudi Taluk,
Tiruchirapalli District.
4. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



R.VIJAYAKUMAR, J.

cmr

C.R.P.(MD).No.927 of 2013

08.09.2023